REGISTERED No. M. 7463.

KERALA GAZETTE

EXTRAORDINARY

PUBLISHED BY AUTHORITY

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L. A. Bill No. 30 of 1962.

NOTIFICATION

No. 4917|LA7|62.

The following Bill together with the Statement of Objects and Reasons, is published, as ordered by the Speaker under Rule 67 of the Rules of Procedure and Conduct of Business in the Kerala Legislative Assembly.

Legislature Secretariat,
Trivandrum,
4th October 1962.

D. TIRUMALAI,
Secretary,
Legislative Assembly.

PRINTED AND PUBLISHED BY THE S.G.P. AT THE GOVERNMENT PRESS, TRIVANDRUM, 1962.

THE KERALA PUBLIC ACCOUNTANTS BILL, 1962

A

BILL

to consolidate and amend the laws relating to the prevention of loss to the Government by the default or misconduct of public accountants in the State of Kerala.

Preamble.—WHEREAS it is expedient to consolidate and amend the laws relating to the prevention of loss to the Government by the default or misconduct of public accountants in the State of Kerala;

BE it enacted in the Thirteenth Year of the Republic of India as follows:—

1. *Short title and extent.*—(1) This Act may be called the Kerala Public Accountants Act, 1962.

(2) It extends to the whole of the State of Kerala.

2. *Definitions.*—In this Act, unless the context otherwise requires,—

(a) "Collector" means the Collector of a district;

(b) "public accountant" means a person who, by reason of being employed in the service of the Government or of any other authority or institution notified by the Government in this behalf from time to time in the Gazette, is entrusted with the receipt, custody, possession or control of any moneys or securities for money, documents, or other property belonging to the Government, or to any such authority or institution notified as aforesaid, or who, in his capacity as Government servant, or servant of any such authority or institution, is entrusted with the receipt, custody, possession or control of any moneys or securities for money, documents or other property belonging to any person or persons or to any institution for and on behalf of the Government or any such authority or institution, as the case may be.

3. *Statement of particulars of claim to be drawn up by Collector or Head of Department.*—(1) Whenever it appears to the Collector or the Head of a Department of the Government or other authority or institution notified under clause (b) of section 2, under whom a public accountant is or was serving, that the Government or such authority or institution have or has a claim on such public accountant for moneys, securities for money, documents or other property, he shall draw up a statement of the particulars of the said claim, and, if he is not a Collector, may send the statement to the Collector in whose jurisdiction such accountant is or was employed.

(2) The Collector when he has himself recorded a statement as aforesaid may, and on receipt of such a statement from the Head of a Department of the Government, other authority or institution shall, by writing under his official seal and signature, require the moneys, securities for money, documents or other property, to be delivered either immediately to the person bearing the said writing or to such other person on such date and at such place as the writing may specify. Such notice of demand may be served on the public accountant in the same manner as a summons is served on a defendant under the Code of Civil Procedure, 1908.

(3) If the public accountant does not satisfy the demand but appears and objects to the claim wholly on in part, the Collector shall enquire into the objection and record a decision.

4. *Realisation of money and recovery of securities, etc., from public accountant.*—If the public accountant does not object to the claim and does not satisfy the demand, or if, after the Collector has enquired into his objection and passed a decision that there is a claim against him, he does not satisfy the claim as set forth in such decision, the Collector may, either by himself or through the Collector in whose jurisdiction such public accountant resides or owns property, take proceedings to realise moneys or value of property due by such public accountant in the same manner as arrears of public revenue due on land, and, for the purpose of recovering securities for money, documents or other property, may issue a search warrant and exercise all such powers with respect thereto as may be lawfully exercised by a Magistrate under the provisions of the Code of Criminal Procedure, 1898.

5. *Seizure and attachment of property of public accountant.*—Whenever the Collector acting under sub-section (2) of section 3 has reason to believe that there is an attempt to conceal, destroy or otherwise dispose of any securities for money, documents or other property whatsoever liable to attachment or seizure under section 4, or to defeat any proceedings under this Act, he may, after recording his reasons, issue, pending the result of any enquiry under section 3, a warrant for the immediate seizure of any securities for money, documents of other property due from the public accountant concerned, or for the immediate attachment of the movable and immovable properties of such public accountant towards the realisation of any sum which may appear to be due from him under section 4:

Provided that no such seizure or attachment shall take place or continue, if the public accountant satisfies the claim as set forth in the statement of particulars of claim which shall always accompany the warrant, or gives sufficient security therefor.

6. *Continuance of proceedings.*—On the death of a person who is, or has been, a public accountant, proceedings may be taken or continued under this Act against his legal representative as if such legal representative were the public accountant:

Provided that such legal representative shall be liable only to the extent of the property of the deceased which has come to his hands and has not been duly disposed of.

7. *Saving of rights to sue.*—Nothing in this Act shall be held to prevent any parties deeming themselves aggrieved by any order passed or proceedings taken under this Act from suing the Government or the authority or the institution, as the case may be, in the Civil Courts:

Provided that such suits shall be instituted within six months from the time at which the cause of action arose.

8. *Delegation of powers by Collector.*—(1) The Collector may, by order in writing, delegate all or any of the powers conferred on him by or under this Act to any officer subordinate to him, not below the rank of a Tahsildar.

(2) The order of the officer subordinate to the Collector passed by him in exercise of the powers delegated under sub-section (1) shall be subject to confirmation by the Collector and shall be communicated to the Collector before it is carried into execution.

(3) The Collector may, on receipt of such communication, confirm, modify or annul such order or issue any further orders as he may deem fit.

9. *Repeal.*—The Public Accountants Default Act, 1850 (Central Act 12 of 1850), as in force in the Malabar district referred to in sub-section (2) of section 5 of the States Reorganisation Act, 1956 (Central Act 37 of 1956), in so far as it is applicable to public accountants as defined in clause (b) of section 2 of this Act, and the Acts and Regulations specified in the Schedule, as in force in any part of the State of Kerala. are hereby repealed.

THE SCHEDULE

(*See* section 9)

ACTS

1. The Travancore-Cochin Public Accountants Act, 1951 (V of 1951).
2. The Madras Public Property Malversation Act, 1837 (Central Act 36 of 1837).

REGULATIONS

1. The Madras Revenue Malversation Regulation, 1822 (IX of 1822).
2. The Madras Revenue Malversation (Amendment) Regulation, 1823 (III of 1823).
3. The Madras Subordinate Collectors and Revenue Malversation (Amendment) Regulation, 1828 (VII of 1828).
4. The Madras Revenue Malversation (Amendment) Regulation, 1832 (III of 1832).

STATEMENT OF OBJECTS AND REASONS

The law relating to the prevention of loss to the Government by the default or misconduct of public accountants, in force in the Travancore-Cochin area, is the Travancore-Cochin Public Accountants Act, 1951. In the Malabar area, the following enactments relating to the above subject are in force:—

(i) The Public Accountants Default Act, 1850 (Central Act 12 of 1850);

(ii) The Madras Public Property Malversation Act, 1837 (Central Act 36 of 1837);

(iii) The Madras Revenue Malversation Regulation, 1822 (IX of 1822);

(iv) The Madras Revenue Malversation (Amendment) Regulation, 1823 (III of 1823);

(v) The Madras Subordinate Collectors and Revenue Malversation (Amendment) Regulation, 1828 (VII of 1828);

(vi) The Madras Revenue Malversation (Amendment) Regulation, 1832 (III of 1832).

It is considered necessary to enact a uniform law on the subject applicable to all public accountants employed in the service of the Government. Government also consider that public accountants employed in the service of authorities and institutions notified by the Government in this behalf should also be brought within the scope of the unified law.

The Bill is intended to achieve the above objects.

K. CHANDRASEKHARAN.

REGISTERED No. M. 7463

KERALA GAZETTE

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THE KERALA HACKNEY CARRIAGE BILL, 1961

(Report of the Select Committee)

The Select Committee to which the Kerala Hackney Carriage Bill, 1961 was referred have considered the Bill clause by clause and now submit this their report with the Bill as amended by the Select Committee annexed thereto.

2. The Bill was published in the Gazette dated the 10th October 1961.

3. The Bill was introduced in the Assembly on the 18th December 1961 and the motion for reference of the Bill to a Select Committee was adopted on the same date.

4. The Committee met on 17th and 25th September 1962. The changes proposed by the Committee to the Bill and the reasons therefor are set out in the following paragraphs:

5. *Clause 1 and New Schedule.*—The Committee are of opinion that the areas in which the provisions of the Act shall come into force at once may be specified in a schedule.

Sub-clause (3) has been accordingly modified and a new Schedule is added.

6. *Clause 2.*—A new definition of the term 'Director' has been added in view of the fact that in the application of the provisions of this Act to Municipal and Panchayat areas different officers now function as Directors.

Definitions of executive authority and local authority have been modified so as to include townships also.

7. *Clause 6.*—The Committee feel that the reduction of the number of hand-pulled rickshaws to be registered in any year may be fixed at 5 per cent instead of 10 per cent. Necessary change has been effected.

8. *Clause 15.*—The Committee are of opinion that appeals from the orders of the registering authority under section 6 or section 11 should be heard by the local authority concerned instead of Government Officers.

This clause has accordingly been modified.

9. *New Clause 25.*—The Committee are of the view that provision for an appeal should be made against orders under sections 21 and 24.

A new clause 25 has accordingly been included for this purpose.

10. *Clause 27 (Original clause 26).*—The Committee are of the opinion that it is not necessary to insist that the driver shall wear the badge while appearing before any Magistrate in his capacity as driver.

Sub-clauses (2) and (3) have been modified accordingly.

11. *Clause 41 (Original clause 40)*.—The Committee consider that it is not necessary to make the owner responsible for the production of an absent driver and that it would be sufficient to cast an obligation to give the correct address of the absent driver.

Clause 41 has accordingly been suitably modified.

12. *Clause 50 (Original clause 49)*.—The Committee feel that provision for ex parte disposal of the case should be permitted only where there is proof of personal service of the summons. The clause has been accordingly modified.

13. *Clause 54 (Original clause 53)*.—Sub-clause (3) of this clause has been re-drafted in the light of the recommendations of the Committee on Subordinate Legislation so that any modifications or annulments that may be made shall be without prejudice, to the validity of anything previously done under those rules.

14. *Clause 55 (Original clause 54)*.—The Committee feel that the power to frame bye-laws should be vested in the local authority instead of the registering authority. The clause has been modified accordingly.

14. *Clause 57 (Original clause 56)*.—The Committee feel that it would be sufficient if sanction of the Director is obtained by the registering authority for delegating its functions under the Act to any other officer.

Clause 57 has been modified accordingly.

16. The other changes made are either consequential or of a drafting nature.

P. P. UMMER KOYA,
Chairman of the Select Committee.

THE KERALA HACKNEY CARRIAGE BILL, 1961

[As amended by the Select Committee]

(Words underlined or side-lined indicate the amendments suggested by the Committee; omissions are indicated by asterisks.)

A

BILL

to unify and amend the law relating to the regulation of Hackney Carriages in the State of Kerala.

Preamble.—Whereas it is expedient to unify and amend the law relating to the regulation of Hackney Carriages in the State of Kerala;

Be it enacted in the Thirteenth Year of the Republic of India as follows:—

CHAPTER I

Preliminary

1. *Short title, extent and commencement.*—(1) This Act may be called the Kerala Hackney Carriage Act, 1962.

(2) It extends to the whole of the State of Kerala.

(3) This section and section 58 shall come into force in the whole of the State of Kerala at once. The remaining sections of this Act shall come into force at once in the areas specified in the schedule and they shall come into force in other areas of the State on such date as the Government may by notification in the Gazette appoint, and different dates may be appointed for different areas:

Provided that before issuing any such notification, the Government shall publish a notice of the proposal in the Gazette inviting objections thereto and consider any objections received within the time specified therefor in the notice.

2. *Definitions.*—In this Act, unless the context otherwise requires—

(1) 'Director' means in relation to any area within the jurisdiction of a Municipal Corporation or any area comprised in a Municipality or Township, the Director appointed under clause (13) of section 3 of the Kerala Municipalities Act, 1960 (Act 14 of 1961) and in relation to any Panchayat area the Director appointed under clause (7) of section 2 of the Kerala Panchayats Act, 1960 (Act 32 of 1960);

(2) 'driving' includes drawing, pushing or propelling, and driver includes any person who drives, draws, pushes or propels any hackney carriage;

(3) 'executive authority' means, in the case of a Municipal Corporation or Municipal Council, the Commissioner of the Corporation or Council as the case may be; in the case of a Panchayat, the executive authority of the Panchayat; and in the case of a township, the executive officer of the Township Committee;

(4) 'hackney carriage' means any wheeled vehicle drawn, pushed or propelled by a man, or drawn by horse, bullock or other animal and used for the conveyance of any person or goods and which stands or plies for hire by the hour or day or according to distance, and includes a rickshaw;

(5) 'horse' includes mule or pony;

(6) 'local authority' means—

(a) in any city, the Corporation of that city;

(b) in any municipal area, the municipal council concerned;

(c) in any Panchayat area, the Panchayat concerned; and

(d) in any Township, the Township Committee concerned;

(7) 'Magistrate' means any magistrate having local jurisdiction in any area to which this Act extends;

(8) 'minor' means any person who has not completed the age of eighteen years;

(9) 'registering authority' means the executive authority of the local authority concerned or any other person appointed by name or by virtue of his office, by the Government for registering hackney carriages within a particular area;

(10) 'rickshaw' means a two-wheeled vehicle or a tri-cycle of special type drawn or propelled by a person and includes a cycle-rickshaw;

(11) 'year of registration' means the year ending with the 31st day of March.

3. *Saving.*—Nothing in this Act shall apply to a hackney carriage owned by the Government or a local authority.

CHAPTER II

Registration and Numbering of Hackney Carriages

4. *Annual registration compulsory.*—Every hackney carriage shall be annually registered by the registering authority.

5. *Application for registry.*—(1) Any person who is desirous of having any vehicle registered as a hackney carriage shall apply to the registering authority and shall submit the vehicle for such inspection as the registering authority may direct.

(2) The person in whose name any carriage is registered shall be deemed to be the owner of such carriage for the purposes of this Act:

Provided that if the person in whose name any carriage is registered is a minor, the guardian of such minor shall be deemed to be the owner of the carriage.

6. *Right to Registry.*—Every applicant under section 5 shall be entitled to registration unless the registering authority is of opinion that the vehicle is not fit for public use:

Provided that no vehicle shall be registered in the name of a minor unless the application is made by his guardian on behalf of the minor:

Provided further that the registering authority may, in the interest of the public,—

(1) limit the number of vehicles of any description which may be registered annually, in which case no vehicle of that description shall be registered in any year in excess of the number so limited;

(2) refuse to register vehicles of a particular description in which case no vehicle of that description shall be registered;

(3) limit the number of hand-pulled rickshaws to be registered in any year, to a number which shall be less by 5 per cent than the number registered in the immediately preceding year.

7. *Grant of carriage licence.*—(1) The registering authority, shall, at the time of registration, deliver a licence duly signed by him to the applicant.

(2) A licence granted under this section shall be in force for the year of registration.

8. *Form of licence.*—The following particulars shall be entered in the register and in the licence to be given to the applicant:—

(1) The number in the register of the hackney carriage.

(2) The name and residence of the owner and the place where the hackney carriage is kept.

(3) A description of the hackney carriage.

(4) The number of horses or other animals to be employed in drawing such hackney carriage and, if the hackney carriage is drawn or pushed or propelled by men, the number of men to be so employed.

(5) The number of passengers such hackney carriage is licensed to carry.

(6) The weight of the luggage such carriage is licensed to carry in addition to the passengers.

(7) The date of the licence and its date of expiry.

9. *Fee for licence.*—A fee shall be paid to the registering authority for each licence of such sum, as may be fixed by the Director, by notification in the Gazette, subject to the condition that no such fee shall exceed the fee specified hereunder.

	Rs.	nP.
(a) for every four wheeled carriage drawn by two or more horses licensed to carry more than six passengers	10	00
(b) for every other four wheeled carriage drawn by two horses	5	00
(c) for every other four wheeled carriage drawn by one horse or by one or more bullocks	3	00
(d) for every two wheeled carriage drawn by one or. more horses	2	00
(e) for every two wheeled carriage drawn by one or more bullocks	1	00
(f) for every rickshaw, perambulator or other vehicle drawn, propelled or pushed by man or in any other manner	0	50

10. *Fee for certified copy of register or licence.*—Every person applying for a certified copy of the particulars in the register or licence mentioned in section 8 shall be furnished the same on payment of a fee of twenty-five naye paise.

11. *Suspension of licence by Registering Authority.*—The registering authority may suspend for such period as it thinks fit the licence of any hackney carriage, whenever it appears to it that such carriage, or any animal or harness used therewith is unfit for public use.

12. *Transfer of registry.*—On any transfer of ownership of a hackney carriage, the transferee shall, if he desires to use it as such, within one week from the date of the transfer, apply to the registering authority for transfer of the registry, giving it the particulars specified in the first three clauses of section 8.

13. *Notice of change of residence, etc., to be given by licensees.*—(1) Whenever the owner of a hackney carriage changes his residence, or the place where such carriage is kept, he shall within one week from the date of such change forward his licence and give to the registering authority a notice in writing signed by him specifying the new residence or place.

(2) Every such owner who neglects to forward his licence or give such notice shall be liable to a fine not exceeding twenty rupees.

14. *Transfers and change of residence to be registered.*—The registering authority, on receiving the application or notice specified in section 12 or section 13, shall make the necessary alteration in the register and the licence, and return the licence; and a fee of twenty-five naye paise shall be payable along with every such application or notice.

15. *Appeal.*—Any person aggrieved by any order refusing registration of any vehicle under section 6 or suspending a licence under section 11, may within thirty days from the date of intimation of such order, appeal to the local authority concerned and the order passed in appeal shall be final.

16. *Penalty for keeping unlicensed hackney carriage.*—Whoever keeps any hackney carriage which has not been duly licensed under this Act, shall be liable to a fine not exceeding fifty rupees.

17. *Numbering of hackney carriage.*—(1) Upon the registration of any hackney carriage, the registering authority shall cause to be painted on some conspicuous part of the carriage or on a plate to be affixed on some conspicuous part of the carriage its number in the register and the number of passengers it is licensed to carry.

(2) If the words or figures so painted become indistinct or are obliterated during the term of the licence, the owner of the carriage shall be bound to produce it before the registering authority and apply to have such words or figures renewed. If the plate so affixed shall have been lost or stolen, the owner of the carriage shall be bound to apply to the registering authority to have a new plate affixed.

(3) The fee for the painting done or the plate supplied under sub-section (1) or sub-section (2) shall be twenty-five naye paise, payable to the registering authority.

18. *Penalty for plying for hire without plate or inscription.*—If any hackney carriage stands or plies for hire without a plate or legible inscription as prescribed by section 17, the owner thereof shall be liable to a fine not exceeding twenty rupees.

19. *Return of plate on expiry of licence.*—(1) On the expiration or other determination of the period of registration, the owner of every hackney carriage shall cause the plate, if any, of such hackney carriage to be delivered to the registering authority.

(2) Any person who, after the expiration of the period aforesaid, wilfully omits for fourteen days to deliver the plate, if any, to the said authority, shall be liable to a fine not exceeding twenty rupees.

20. *Penalty for using counterfeit plate.*—(1) Every person who shall, for the purpose of deception, use or have any plate or painting resembling or intended to resemble any plate affixed or painting made under this Act, shall be punishable

with fine which may extend to fifty rupees, and in the case of a subsequent conviction under this section, with fine which may extend to one hundred rupees or with imprisonment for a term which may extend to one month, or with both.

(2) Any officer of the local authority duly empowered in that behalf by the registering authority or any Police Officer may seize and take away any plate used or had as aforesaid wheresoever the same may be found, and deliver the same to the registering authority and in the case of painting referred to in sub-section (1) obliterate the same.

CHAPTER III

DRIVERS' LICENCE AND BADGE

21. *Grant of driver's licence.*—(1) The registering authority may grant a licence to act as driver of any hackney carriage to any applicant whom he may consider fit, provided he is not a minor.

(2) Every such licence shall contain—

(i) the number of the licence, the name, place of abode and age of the person to whom such licence is granted;

(ii) the description of the carriage and animals, if any, to be used therewith; and

(iii) the date on which the licence was granted and the date of its expiry;

and shall bear the signature of the registering authority.

(3) Such licence shall be in force for the year of registration and the fee payable therefor shall be one rupee and fifty naye paise:

Provided that no fee shall be payable for the licence for the driver of a rickshaw; and the fee payable for the licence for driver of any hackney carriage mentioned in clause (f) of section 9, other than a rikshaw, shall be twenty-five naye paise.

22. *Particulars of licence to be registered.*—The particulars of every licence granted under section 21 shall be entered in a register by the registering authority and every person applying shall be furnished with a certified copy of such particulars on payment of a fee of twenty-five naye paise.

23. *Penalty for driving without licence or lending licence.*—If any person acts as the driver of a hackney carriage without having a licence in force for the time being or, having a licence, fails to carry it with him when driving a hackney carriage, or transfers or lends it or allows it to be used by any other person, he shall be liable to a fine not exceeding twenty rupees.

24. *Suspension of licence by registering authority.*—The registering authority may suspend for such period as he thinks fit the licence of the driver of a hackney carriage whenever, in its opinion, such driver is unfit to be so employed.

"25. *Appeal.*—Any person aggrieved by an order refusing grant of a licence under section 21 or suspending a licence under section 24 may, within thirty days from the date of intimation of such order, appeal to the local authority concerned and the order passed in appeal shall be final."

26. *Penalty for suffering unlicenced person to drive.*—The owner of a hackney carriage, who knowingly suffers any person, not duly licenced under this Act, to act as driver of such carriage, shall be liable to a fine not exceeding fifty rupees:

Provided that such owner and such unlicenced driver shall be subject to all the provisions of this Act for any act done or omitted to be done by such driver during such employment in like manner as if such driver had been duly licenced.

27. *Supply of badge to driver.*—(1) The registering authority shall, at the time of granting a licence to any driver of a hackney carriage, furnish him with a metal badge punched or marked with the number of his licence.

(2) Every driver to whom such badge is delivered shall, at all times while acting as driver, ** ** ** ** ** ** wear such badge exposed to view.

(3) In case any such driver omits to wear such badge exposed to view while acting as driver ** ** ** ** ** he shall be liable to a fine not exceeding ten rupees.

(4) Whenever the number on any badge becomes indistinct or is obliterated during the term of the licence, or whenever any badge is lost or stolen, the person to whom the licence relating to any such badge has been granted shall deliver such badge or notify its loss and shall produce such licence to the registering authority, and such person shall then be entitled to have a new licence and badge delivered to him upon payment of the fee specified in section 21. Such new licence shall be in force for the year of registration.

(5) Every person licenced under the authority of this Act who uses or wears the badge granted to him after the writing thereon has become indistinct or obliterated shall be liable to a fine not exceeding ten rupees.

28. *Return of expired licence and badge.*—(1) Upon the expiration or other determination of any licence granted to a driver under this Act, he shall deliver such licence and his badge to the registering authority.

(2) Every driver who neglects for three days to deliver such expired licence and badge to the registering authority and also every person who uses or wears or fradulently detains any such expired licence or badge and every person to whom any expired licence or badge has been delivered, who lends, gives away, pledges or sells such badge to any other person, and every person who detains, wears or uses any licence, or badge of any other person, shall be liable to a fine not exceeding twenty rupees.

29. *Penalty for using counterfeit badge.*—Every person who, for the purpose of deception, uses or wears any badge resembling or intended to resemble any badge granted under the authority of this Act, shall be punishable with fine which may extend to fifty rupees, and in the case of a subsequent conviction under this section, with fine which may extend to one hundred rupees, or with imprisonment for a term which may extend to one month.

30. *Seizure of expired or counterfeit badge.*—Any officer of the local authority duly empowered in that behalf by the registering authority or any Police Officer may seize and take away any expired or counterfeit badge, or any badge in respect of which an offence under section 28 has been committed, wheresoever the same may be found, and deliver the same to the registering authority.

31. *Penalty for failure to produce licence before Magistrate.*—Whenever any driver is summoned to appear before any Magistrate to answer any charge preferred against him under this Act, he shall carry with him his licence, and produce the same if required so to do, and any driver who, on such requisition, refuses to produce such licence, shall be liable to a fine not exceeding five rupees.

32. *Convictions under Act to be endorsed on licence.*—On the conviction of any driver for any offence under this Act, the Magistrate shall cause to be endorsed on his licence the nature of the offence, the date of the conviction and the penalty inflicted.

33. *Cancellation of suspension of licence on conviction.*—(1) On the conviction of any driver for any offence under this Act, the Magistrate may direct the cancellation of the licence of such driver or its suspension for such time as he thinks fit.

(2) For such purpose, he may require the driver or, any other person who may be in possession of the licence or badge to deliver up the same.

(3) If such driver or other person refuses or neglects to deliver up the licence or badge, he shall be liable to a fine not exceeding ten rupees.

(4) The magistrate shall forward every licence and every badge delivered up to him under sub-section (2) to the registering authority together with a memorandum of his sentence in the case.

(5) The registering authority shall enter the fact of such sentence in the register referred to in section 22, and shall either suspend or cancel such licence according to the direction of the Magistrate; and if it has been suspended, the registering authority shall, on application at the end of the period of suspension, redeliver such licence or badge to the person to whom it was granted.

CHAPTER IV

Fares, Hiring and Plying for Hire

34. *Maximum fares for use of hackney carriages.*—(1) The owner or driver of every hackney carriage may demand and receive for the hire of such carriage such fares as may be fixed and published by the registering authority with the sanction of the Director, duly notified:

Provided that any agreement entered into to accept a fare lower than the fare so fixed shall be binding.

(2) No owner or driver shall demand or receive over and above the said fare any sum for back fare for the return of the carriage from the place at which it was discharged.

35. *Contract for higher fare invalid.*—No agreement made with the driver of any hackney carriage for the payment of more than the fare published in accordance with section 34 shall be binding on the person making the same, and any person, notwithstanding such agreement, may refuse on discharging such hackney carriage to pay any sum beyond such fare. If, in pursuance of such agreement, any person receives any sum exceeding the fare allowed, he shall be liable to pay a fine not exceeding ten rupees and also to refund such excess, which shall be recoverable as if it were a fine.

36. *Publication of authorised fares and distances.*—(1) The registering authority shall cause to be prepared a list in English and in any other local language of the fares published under section 34 and shall annex to such list a table showing the distance between the principal places to and from which hackney carriages commonly ply. The distances so shown shall be presumed to be correct.

(2) Copies of such list and table shall be issued to all applicants on payment of a fee of twenty-five naye paise for each copy or of such other sum as the registering authority, subject to the control of the Director, may prescribe.

(3) The driver of every hackney carriage standing or plying for hire shall have with him a copy of such list and table and shall on demand produce the same for the inspection of any Police Officer or of any officer of the local authority duly authorised in that behalf by the registering authority or for the information of any hirer of, or passenger by his carriage, and shall in default, be liable to a fine not exceeding ten rupees.

(4) The registering authority shall also cause an abstract of the fares referred to in sub-section (1) to be prepared in English and in any other local language and printed on enamelled plates and such plates shall be issued to applicants on payment of a fee of twenty-five naye paise for each plate.

(5) Every hackney carriage shall have such a plate affixed and as often as any portion of the printing on any such

plate becomes indistinct or obliterated, re-affixed, on a conspicuous part of the carriage in accordance with the directions of the registering authority.

(6) If any hackney carriage stands or plies for hire without such a plate affixed or re-affixed as required by sub-section (5), the owner and driver thereof shall be punishable with fine not exceeding twenty rupees.

37. *The maximum distance to which the driver is bound to drive.*—(1) The driver of every hackney carriage shall be bound to drive such carriage to any place named by the hirer which is not more than 3 miles from the place of hiring in the case of vehicles of the description specified in clause (f) of section 9, and in the case of any other vehicle, not more than six miles.

(2) When any hackney carriage is hired by time, the driver thereof shall drive the same at a rate of speed not less than that prescribed by the registering authority.

(3) A driver failing, without reasonable excuse, to comply with the provisions of this section shall be liable to a fine not exceeding ten rupees.

38. *Quantity of luggage to be carried.*—The driver of every hackney carriage shall carry in or upon such carriage without additional charge such quantity of luggage for every person hiring the same as may be prescribed by the rules under this Act.

39. *Penalty for refusing to let hackney carriage for hire.*—Any owner or driver of any hackney carriage who demands more than the fare to which he is legally entitled, or without reasonable excuse refuses to let such carriage for hire, shall be liable to a fine not exceeding fifty rupees and to pay such further sum by way of compensation to the party complaining as to the Magistrate may seem just; and such further sum shall, in default of immediate payment, be levied as if it were a fine.

40. *Penalties for various offences by driver.*—Every driver of a hackney carriage who—

(a) is drunk during his employment;

(b) makes use of insulting or abusive language or gesture;

(c) stands elsewhere than at some stand or other places appointed for the purpose or loiters for the purpose of being hired in or upon any public street, road or place;

(d) wilfully obstructs, or hinders, the driver of any other hackney carriage in taking up or setting down any person into, or from such other carriage;

(e) wrongfully prevents or endeavours to prevent the driver of any other hackney carriage from being hired;

(f) refuses to admit and carry in such carriage the number of passengers the carriage is licenced to carry;

(g) carries more than such number of passengers;

(h) refuses to carry the quantity of luggage allowed by the licence;

(i) being hired, permits or suffers any person to be carried in or upon or about such hackney carriage during such hire, without the consent of the person hiring the same;

(j) drives in any hackney carriage any animal which is not so secured as to be under the control of the driver;

(k) being hired by time or distance, before he has been discharged by the hirer, wilfully deserts from the hiring;

(l) plies for hire with any carriage or animal which shall at the time be unfit for public use;

(m) plies for hire with any carriage which is not fitted with any suitable warning signal, such as bell, horn or other contrivance;

(n) without previously disinfecting it, knowingly uses for hire any carriage used for the conveyance of a corpse or any person suffering from any contagious or infectious disease;

(o) demanding advance payment of fare;

(p) refusing to obey the resonable directions of any person hiring his vehicle; and

(q) permitting the inside of the hackney carriage of which he is in charge, to become dirty;

shall be liable to a fine not exceeding fifty rupees, or to imprisonment which may extend to one month or to both.

41. *Requisition to owner to furnish address of absent driver.*—(1) When a complaint is made before a Magistrate against the driver of a hackney carriage under this Act, the Magistrate may if the driver fails to appear, summon the owner to appear and to furnish the correct address of the driver.

(2) If the owner after being duly summoned fails, without reasonable excuse, to appear or furnish the correct address of the driver according to the summons, he shall be liable to a fine not exceeding fifty rupees.

(3) If the owner fails without reasonable excuse to appear or furnish the correct address of the driver on a subsequent summons requiring him to do so, the Magistrate may dispose of the complaint in the absence of the owner and driver or either of them.

42. *Special provision regarding rickshaws.*—Notwithstanding anything contained in this Act, the fine in respect of any

offence relating to rickshaws under this Act shall not exceed ten rupees.

43. *Procedure in case of disputes between hirer and driver.*—(1) In case of any dispute between the hirer and driver of any hackney carriage, either may require the other to proceed forthwith to the nearest Magistrate's court and the then sitting Magistrate shall hear and determine the dispute in a summary way.

(2) If no Magistrate be then sitting, either party may require the other to proceed to the nearest Police Officer who shall enter the complaint in his diary and require the parties to appear before the Magistrate at his next sitting.

(3) On failure of either party to appear before the Magistrate in pursuance of a requisition under sub-section (1), or sub-section (2) or to attend the Court at any subsequent sitting to which the case may be adjourned, the Magistrate may decide the case ex parte, and his decision shall be binding on both parties.

44. *Procedure in case of refusal to pay fare.*—(1) If any person who has hired a hackney carriage refuses to pay to the owner or driver thereof, the fare payable under this Act, the Magistrate may order payment of such fare, and also of reasonable compensation for loss of time, and in default of immediate payment, such fare and compensation may be recovered as a fine.

(2) If any person who has used any such carriage attempts to evade payment of the legal fare, or any portion thereof, he shall be liable to a fine not exceeding fifty rupees in addition to any payment which may have been ordered under sub-section (1).

45. *Penalty for defacing or destroying plate, badge, or table of fares.*—(1) Every person who wilfully tears, destroys, defaces, obliterates or removes any plate, list of fares, table of distances, or driver's badge, kept under the provisions of this Act, shall be liable to a fine not exceeding twenty rupees.

(2) Any portion of the fine may be awarded to the person to whom such plate, list or fares, table of distances, or driver's badge belongs.

46. *Penalty for wilful damage to hackney carriage.*—Every person using a hackney carriage who wilfully causes any damage to the same, shall be liable to a fine not exceeding twenty rupees and shall also pay to the owner such compensation for the damage as the Magistrate may direct; and such compensation shall be leviable as if it were a fine.

47. *Hackney carriage stands.*—(1) The Registering Authority shall appoint a sufficient number of public stands for hackney carriages.

(2) Every public stand so appointed shall have a board placed in a conspicuous place on the same, containing a notice

in English and in any other local language, stating that the stand is a public stand under this Act, and specifying the number of carriages that may be stationed in it.

CHAPTER V

Lost property

48. *Deposit with registering authority or Police Officer of property left in hackney carriage.*—(1) The owner or driver of every hackney carriage wherein any property is left by any person shall, within eighteen hours, deposit the property with the registering authority or with the Inspector or other officer on duty in the nearest police station and shall be entitled to a receipt duly signed by the officer taking charge of the same.

(2) Any such owner or driver making default herein shall be liable to a fine not exceeding twenty rupees or to imprisonment for a period which may extend to one month or to both.

49. *The registering authority or Police Officer to register particulars of property deposited and grant receipt.*—(1) The said authority or officer shall forthwith enter, in a book to be kept for that purpose

(a) the description of the property;

(b) the name and address of the driver or other person who brings it;

(c) the name and address of the owner of the hackney carriage in which it was left, and the registered number of the carriage; and

(d) the day and hour when the property is brought and shall give to the person bringing the property a receipt for the same.

(2) If the property is deposited in a police station, the officer receiving the property shall forthwith forward the same to the registering authority with a copy of the entries made in the book in respect of the property.

(3) The property deposited under sub-section (1) shall be delivered to the person who satisfies the registering authority that it belongs to him, upon payment of all expenses incurred by the owner or driver together with such reasonable sum as the registering authority may award;

Provided that—

(i) if the property is not claimed and the ownership established within six months from the date of deposit, the registering authority may cause the property to be advertised and sold by public auction;

(ii) when the property so deposited is subject to speedy and natural decay or when the expenses of keeping it in custody is likely to exceed its value the registering authority may

cause it to be sold at once; and the proceeds, after deducting the expenses together with such reasonable sum as the registering authority may award to the owner or driver, may be forfeited to the Government, if within the period aforesaid the ownership is not established.

CHAPTER VI

PROSECUTIONS

50. *Exparte disposal of criminal charge.*—If, in any prosecution under this Act, the person charged does not appear as directed by the summons, the Magistrate may, upon proof of personal service and if no sufficient cause be shown for the non-appearance, proceed to dispose of the case in his absence.

51. *Limitation restricting criminal proceedings.*—(1) No person shall be liable to prosecution for any offence under this Act unless the complaint respecting such offence be made within one month next after the commission of such offence.

(2) For the purposes of this section, every failure or contravention punishable under this Act shall be deemed to be a continuing offence so long as the failure or contravention continues.

52. *Compensation for frivolous prosecution.*—Where the Magistrate is satisfied that a complainant had no reasonable ground for instituting a prosecution, he may direct the complainant to pay to the accused such compensation not exceeding fifty rupees as he thinks fit and the sum so awarded shall be recoverable as if it were a fine.

CHAPTER VII

SPECIAL PROVISIONS RELATING TO RICKSHAWS

53. *Power of Government to make special rules.*—(1) Notwithstanding anything contained in the foregoing provisions of this Act or the rules made thereunder, the Government, may after previous publication, make special rules for the licensing of rickshaws and rickshaw pullers.

(2) In particular and without prejudice to the generality of the foregoing power such rules may—

(a) prescribe the period for which the rickshaws, hand-pulled and cycle driven are to be permitted to ply;

(b) prescribe the size and design of rickshaw and the conditions for grant of licence;

(c) prescribe the period after which the licence has to be renewed;

(d) prescribe the standard of physical fitness, with special reference to age, required for rickshaw pullers and drivers;

(e) prescribe the rates of fees to be paid by rickshaw pullers and drivers for medical certificates;

(f) prescribe the penalties for the violation of auy of the rules by the owner of the rickshaw or by the puller or driver of the rickshaw.

CHAPTER VIII

RULES, BYE-LAWS AND DELEGATION

54. *Power to make rules.*—The Government may, after previous publication, make rules, not inconsistent with the provisions of this Act, to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may be made with regard to—

(a) the examination and qualifications of drivers and the conditions under which they may be employed;

(b) the description of horses, bullocks or other animals, harness and other things to be used with hackney carriages, the dimensions of such carriages, the condition in which such carriages and horses, bullocks or other animals, harness and other things used therewith shall be kept;

(c) the inspection of the premises on which any such carriages, horses, bullocks or other animals harness and other things are kept;

(d) the inspection of hackney carriages with a view to see if such carriage are in a fit condition for public use;

(e) the fitting of bells, horns or other warning signals to carriages and for testing the same;

(f) the protection of weak, lame and sickly horses, bullocks or other animals;

(g) the publication of the list of fares and table of distances and the regulation of the amount and weight of luggage to be carried with or without additional charges; and

(h) generally for carrying out the purposes of this Act:

(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before the Legislative Assembly while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid, or the session immediately following, the Legislative Assembly makes any modification in the rule or decides that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

55. *Power to make bye-laws.*—Every local authority may with the previous approval of the Director make bye-laws not inconsistent with the provisions of this Act and the rules made thereunder on matters not covered by the rules.

56. *Penalty for breach of bye-laws.*—Whoever infringes any rule or bye-law shall, on conviction before a Magistrate, be liable to a fine not exceeding twenty rupees.

57. *Delegation of registering authority's function.*—With the sanction of the Director, the registering authority may delegate to any other officer under it all or any of its functions under this Act, ** ** ** **

58. *Repeal and saving.*—The Madras Hackney Carriage Act, 1911 (Act V of 1911) as in force in the Malabar district referred to in sub-section (2) of section 5 of the States Reorganisation Act, 1956 and the Travancore-Cochin Hackney Carriage Act, 1950 (XXXV of 1950) are hereby repealed.

SCHEDULE

[See Section 1(3)]

1. Trichur Municipality
2. Kunnamkulam Municipality
3. Alleppey Municipality
4. Shertallai Municipality
5. Muvattupuzha Municipality
6. Mattancherry Municipality
7. Parur Municipality
8. Ernakulam Municipality
9. Trivandrum City
10. Area under the jurisdiction of the Calicut Town Police Station, Calicut Kasba Police Station, Nadakkavu Police Station and Panniankara Police Station.

Legislature Secretariat,
Trivandrum,
4th October, 1962.

D. TIRUMALAI,
Secretary.